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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DAVID MELVIN and J.L., individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

23ANDME, INC., a Delaware corporation,

Defendant.

Case No. 24-cv-00487-SK

**DECLARATION OF J. ELI WADE-SCOTT
IN SUPPORT OF MOTION TO APPOINT
INTERIM LEADERSHIP OF CLASS
ACTION**

1 Pursuant to 18 U.S.C. § 1746, I, J. Eli Wade-Scott, declare as follows:

2 1. I am a partner at Edelson PC and I represent Plaintiffs David Melvin and J.L. in
3 the above-captioned action. I am over the age of eighteen and am fully competent to make this
4 Declaration. This Declaration is based upon my personal knowledge.

5 2. Plaintiffs' counsel at Edelson PC were invited by 23andMe's counsel to attend a
6 planned mediation scheduled for January 31, 2024. We received that invitation on January 14.

7 3. The mediation is set with Randall Wulff, and will be held at the Westin Napa
8 Valley. 23andMe has represented that every firm with a case on file is invited to the mediation.
9 *Santana v. 23andMe, Inc.*, No. 23-cv-05147-EMC, dkt. 58 at 9 (N.D. Cal. Jan. 19, 2024). We
10 were informed that the mediation itself is limited to twenty lawyers in person due to the physical
11 capacity of the conference room that has been rented, and that one lawyer from each firm is
12 permitted.

13 4. A number of firms (at least three, and perhaps more) have issued informal
14 discovery requests to 23andMe prior to the mediation.

15 5. 23andMe agreed to provide some responsive information on January 23 subject to
16 a confidentiality agreement. The information that has been provided so far, from our
17 understanding, has been incredibly limited in scope and sidesteps the merits issues in the case.

18 6. We were informed that the mediator has asked the sides to limit the mediation
19 statements to eight pages, and that there is no current expectation that the mediation statements
20 will be shared with the other side.

21 7. Based on our many conversations with counsel on the cases, there has been no
22 self-ordering among counsel and no consensus on what a proper approach would be. This ranges
23 from smaller issues, like how to frame the mediation statement, to larger ones—like how to
24 value the cases, what the negotiation strategy should be, what information we should be
25 requiring from 23andMe, and any sort of fulsome discussion about what information is required
26 to assess the case and proceed to mediation, and what the broader litigation strategy would be in
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1 the event the case does not settle. (There is no way to consider resolution of a case without fully
2 understanding the litigation strategy if the case doesn't settle.)

3 8. Although we expect that most firms will end up attending the mediation, our
4 understanding is that—especially amongst the firms that have at least some privacy experience—
5 they do not think this is the proper way to proceed.¹

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed on this 26th day of January, 2024, in Chicago, Illinois.

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10 By: /s/ J. Eli Wade-Scott
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26 _____
27 ¹ We don't intend to speak for any particular firm; we expect, instead, that they will
28 present their own views in response to this Motion, and we defer to how each firm ultimately
characterizes its own views of the mediation, the litigation, or any other issue.